

Appeal Brief dated February 6, 2008

Docket No.: 20794/0205573-US0
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Walter Dietz

Application No.: 10/672,783

Confirmation No.: 9681

Filed: September 26, 2003

Art Unit: 1746

For: METHOD OF CONTROLLING THE
REVOLUTIONS OF THE DRUM OF
PROGRAM CONTROLLED LAUNDRY
MACHINE

Examiner: A. Markoff

APPEAL BRIEF

MS Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

As required under § 41.37(a), this brief is filed within two months of the Notice of Appeal filed in this case on December 6, 2007, and is in furtherance of said Notice of Appeal.

The fees required under § 41.20(b)(2) are dealt with in the accompanying TRANSMITTAL OF APPEAL BRIEF.

This brief contains items under the following headings as required by 37 C.F.R. § 41.37 and M.P.E.P. § 1205.2:

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|------|-----------------------------------|
| I. | Real Party In Interest |
| II | Related Appeals and Interferences |
| III. | Status of Claims |
| IV. | Status of Amendments |
| V. | Summary of Claimed Subject Matter |

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VI.	Grounds of Rejection to be Reviewed on Appeal
VII.	Argument
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Appendix B	Evidence
Appendix C	Related Proceedings

I. REAL PARTY IN INTEREST

The real party in interest for this appeal is:

MIELE & CIE KG

II. RELATED APPEALS AND INTERFERENCES

There are no other appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

III. STATUS OF CLAIMS

A. Total Number of Claims in Application

There are 9 claims pending in application.

B. Current Status of Claims

1. Claims canceled: 1-14
2. Claims withdrawn from consideration but not canceled: None
3. Claims pending: 15-23
4. Claims allowed: None
5. Claims rejected: 15-23

C. Claims On Appeal

The claims on appeal are claims 15-23

IV. STATUS OF AMENDMENTS

Applicant filed an Amendment After Final Rejection on November 8, 2007. The Examiner responded to the Amendment After Final Rejection in an Advisory Action mailed November 23, 2007. In the Advisory Action, the Examiner indicated that Applicants' proposed amendments to claims 23 would not be entered.

Accordingly, the claims enclosed herein as Appendix A do not incorporate the amendments to claims 23 as indicated in the paper filed. However, the claims in Appendix A do incorporate the amendments indicated in the paper filed by Applicant on May 24, 2007.

V. SUMMARY OF CLAIMED SUBJECT MATTER

Independent claim 15 recites a method of controlling a laundry treatment machine (e.g., 1 in Fig. 1) with laundry therein. The method includes measuring a load parameter with a measuring device (e.g., 11 in Fig. 1). The load parameter is a function of the laundry disposed in the laundry treatment machine (e.g., page 5, line 29 to page 6, line 7). Upper and lower limits of the rotational speed of a drum (e.g., 3 in Fig. 1) of the laundry treatment machine are set as a function of the load parameter, and the drum is rotated with a drive motor according to the set upper and lower limits (e.g., Specification, page 6, lines 18-28).

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 15-23 were rejected under 35 U.S.C. § 102(b) as being anticipated by Sakane (U.S. Patent No. 5,335,524).

VII. ARGUMENT

Rejection of Claims 15-23 Under 35 U.S.C. § 102(b) in view of Sakane

Claims 15-17 and 19-22

Claims 15-17 and 19-22 were rejected under 35 U.S.C. § 102(b) as being anticipated by Sakane.

It is respectfully submitted that Sakane does not anticipate claims 15-17 and 19-22.

Independent claim 15 recites “measuring a load parameter” and “setting an upper and a lower limit of a rotational speed of a drum of the laundry treatment machine as a function of the load parameter.” It is respectfully submitted that Sakane does not measure a load parameter and set an upper and a lower limit of a rotational speed of a drum as a function of the measured load parameter, as recited in claim 15. In contrast, Sakane controls the drum between predetermined lower and upper rotational speed values n_a and n_b of an operation program stored in a control device 27. See Sakane, column 4, lines 39-54. Sakane merely uses a clothes volume detection signal to control the drum motor voltage or frequency so as to achieve a predetermined rotational speed variation pattern *between* the predetermined rotational speed values n_a and n_b . See Sakane, column 1, lines 56-64, and column 5, lines 52-55. The predetermined speed values n_a , n_b themselves are *predetermined* experimentally and within a range calculated using equation (3). See Sakane, column 5, lines 47-50 and lines 2-11. Nowhere in Sakane is a measured load parameter used in determining the predetermined speed values. Predetermined lower and upper rotational speed values n_a , n_b are thus not set as a function of a measured load parameter, as recited in claim 15.

Because Sakane fails to disclose at least the above-recited features of claim 15, it cannot anticipate claim 15 or any of its dependent claims. It is respectfully submitted that the rejection of claims 15-17 and 19-22 under 35 U.S.C. § 102(b) as being anticipated by Sakane should therefore be withdrawn.

Claim 18

Claim 18 was rejected under 35 U.S.C. § 102(b) as being anticipated by Sakane.

It is respectfully submitted that Sakane does not anticipate claim 18.

Claim 18 depends from claim 15 and is patentable over Sakane for at least the same reasons as those set forth above with respect to claim 15. In addition, claim 18 recites “setting the respective rotational speeds of the washing cycle so as to yield a rotational speed versus time profile of substantially trapezoidal configuration.” This feature is supported, for example, in the Specification at page 7, lines 13-17, and by Fig. 2. As shown in Fig. 2, the drum speed is increased from a minimum rotational speed to a maximum rotational speed and then back to the minimum rotational speed. The maximum rotational speed is held for an extended period of time, thus

forming the recited rotational speed versus time profile of a substantially trapezoidal configuration with a flat speed profile at the top.

It is respectfully submitted that Sakane does not provide a speed profile having a trapezoidal configuration, as recited in claim 18. In contrast, Sakane specifically describes, and shows in Figs. 3 and 5, that the rotational speed is continuously varied from predetermined speed n_a to predetermined speed n_b . See Sakane, column 5, lines 39-41. It is respectfully submitted that therefore none of Sakane's speed profiles, particularly the profiles of Figs. 3 and 5, are therefore trapezoidal. The speed profiles of Figs. 3 and 5 of Sakane are various polygons or curves but not trapezoidal, as recited in claim 18.

Because Sakane fails to disclose the above-recited feature of claim 18, as well as the recited features of claim 15 discussed above, it cannot anticipate claim 18. It is respectfully submitted that the rejection of claim 18 under 35 U.S.C. § 102(b) as being anticipated by Sakane should therefore be withdrawn.

Claim 23

Claim 23 was rejected under 35 U.S.C. § 102(b) as being anticipated by Sakane.

It is respectfully submitted that Sakane does not anticipate claim 23.

Claim 23 depends from claim 15 and is patentable over Sakane for at least the same as those set forth above with respect to claim 15. In addition, claim 23 recites that "the load parameter is a function of a weight of the laundry disposed in the laundry treatment machine." It is respectfully submitted that this feature is not disclosed by Sakane. In contrast, Sakane merely describes detecting the volume of the clothes. See Sakane, column 6, lines 42-45.

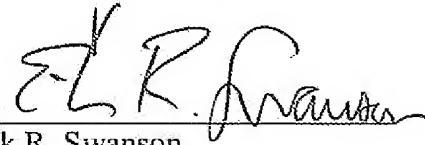
Because Sakane fails to disclose the above-recited feature of claim 23, as well as the recited features of claim 15 discussed above, it cannot anticipate claim 23. It is respectfully submitted that the rejection of claim 23 under 35 U.S.C. § 102(b) as being anticipated by Sakane should therefore be withdrawn.

VIII. CLAIMS

A copy of the claims involved in the present appeal is attached hereto as Appendix A. As indicated above, the claims in Appendix A include the amendments filed by Applicant on May 24, 2007, and do not include the amendment(s) filed on November 8, 2007.

Dated: February 6, 2008

Respectfully submitted,

By 

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APPENDIX A

Claims Involved in the Appeal of Application Serial No. 10/672,783

Claim 1-14 (cancelled)

Claim 15 (Previously Presented): A method of controlling a laundry treatment machine having laundry disposed therein, the method comprising the steps of:

measuring a load parameter using a measuring device, the load parameter being a function of the laundry disposed in the laundry treatment machine;

setting an upper and a lower limit of a rotational speed of a drum of the laundry treatment machine as a function of the load parameter; and

rotating the drum with a drive motor according to the set upper and lower limits.

Claim 16 (Previously Presented): The method of claim 15, wherein the setting is performed so as to set the lower and upper limits in proportion to the measured load parameter.

Claim 17 (Previously Presented): The method of claim 16, wherein the rotating is performed so as to rotate the drum at the start of a washing cycle of the laundry treatment machine at a rotational speed lower than respective rotational speeds later in the washing cycle.

Claim 18 (Previously Presented): The method of claim 17, further comprising setting the respective rotational speeds of the washing cycle so as to yield a rotational speed versus time profile of substantially trapezoidal configuration.

Claim 19 (Previously Presented): The method of claim 17, further comprising setting the respective rotational speeds of the washing cycle so as to yield a rotational speed versus time profile of substantially pointed configuration.

Claim 20 (Previously Presented): The method of claim 15, wherein the lower limit lies between 30 and 40 rpm.

Claim 21 (Previously Presented): The method of claim 15, wherein the upper limit lies between 50 and 80 rpm.

Claim 22 (Previously Presented): The method of claim 15, wherein the setting is performed using a control.

Claim 23 (Previously Presented): The method of claim 15,
wherein the load parameter is a function of a weight of the laundry disposed in the laundry treatment machine.

APPENDIX B

No evidence pursuant to §§ 1.130, 1.131, or 1.132 or entered by or relied upon by the examiner is being submitted.

APPENDIX C

No related proceedings are referenced in section II above, hence copies of decisions in related proceedings are not provided.